



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

FOO/145092

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 08, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 04, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly terminated petitioner's FS effective November 1, 2012.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Alma Lezama

Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner filed an online priority service/expedited FS application on October 11, 2012.
3. On October 12, 2012 the agency interviewed petitioner for her FS. At that time petitioner stated that she lived with her parents. She is 18 years old.

4. On October 15, 2012 the agency issued a notice to petitioner stating that she would get the prorated expedited FS for October 2012.

### **DISCUSSION**

FoodShare eligibility is based upon financial and nonfinancial factors. For the nonfinancial factors, eligibility for FS is determined by gathering certain information about household members. Households consist of all persons living in or temporarily absent from the same residence. See *FS Handbook*, §3.3.1., available online at <http://www.emhandbooks.wi.gov/fsh/>.

In this case, the agency closed petitioner's FS case and added her to her parents' case when it got the information from her that they were living together. Up until that point, the agency had processed the FS as expedited, and had yet to complete all verifications. The agency was required to change her status as included on her parents' FS case. Under §3.3.1.3, the following individuals must be included in the same food unit, even if they do not purchase and prepare meals together:

1. Spouses and spouses.
2. Biological, adoptive, or step-parents and their children under the age of 22
3. Adults and minor children under the age of 18 years over whom they are exercising parental control.

Based on the policy, the agency acted correctly here in adding her to their case.

I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

### **CONCLUSIONS OF LAW**

1. The agency correctly terminated petitioner's FS effective November 1, 2012 on her individual case.
2. The agency correctly added her to her parents' FS case as she is 18 and they live together.

**THEREFORE, it is**

### **ORDERED**

The petition for review herein is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as

"PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

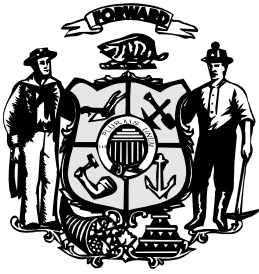
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 18th day of December, 2012

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on December 18, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability